



Upon consideration, the motion is GRANTED. The Court notes that it “should freely give leave [to amend pleadings] when justice so requires.” Federal Rule of Civil Procedure 15(a)(2). An amendment under Rule 15(a) should be permitted “absent undue or substantial prejudice ... unless denial [can] be grounded in bad faith or dilatory motive, truly unexplained delay, repeated failure to cure deficiency by amendment previously allowed, or futility of amendment.” *Long v. Wilson*, 393 F.3d 390, 400 (3d Cir. 2004); *see also Pinegar v. Nicholson*, 2008 WL 11363781, at \*1 (M.D. Pa. May 1, 2008).

Here, the Plaintiff would not be prejudiced by the amendment. The DOC Defendants state that, during the discovery process, they have provided the Plaintiff with documents they intend to rely upon in asserting the affirmative defense. ECF No. 132, ¶ 7. Furthermore, the exhaustion defense “merely presents a legal issue arising from the plaintiff’s actions in seeking relief, which were known to the plaintiff at the time she filed her complaint.” *Pinegar*, 208 WL 11363781, at \*1 (citing *Bechtel v. Robinson*, 886 F.2d 644, 652 (3d Cir. 1989) (observing that to establish prejudice, a party opposing a motion to amend “must show that it was unfairly disadvantaged or deprived of the opportunity to present facts or evidence which it would have offered had the ... amendment[] been timely.”)).

Moreover, nothing suggests that the DOC Defendants have acted in bad faith or that their delay in seeking leave to amend is “truly undue or unexplained.” *Long*, 393 F.3d at 400 (citing *Arthur v. Maersk*, 434 F.3d 196, 204-05 (3d Cir. 2006) (holding that an eleven-month delay is not presumptively unreasonable)). Finally, the proposed amendment is not futile because it may provide a defense to some or all claims presented in this action. *See Pinegar*, 2008 WL 11363781, at \*1.

Accordingly, it is hereby ORDERED that the DOC Defendants' motion to amend their answer is GRANTED. DOC Defendants' shall file an amended answer with ten days of the date of this order.

DATED this 4th day of August, 2023.

BY THE COURT:



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RICHARD A. LANZILLO  
CHIEF UNITED STATES MAGISTRATE JUDGE